

REMARKS

Applicant thanks Examiner Davis and Examiner Tate for their time and consideration of the present application, as well as their suggestions for amendments, during the telephonic interview of September 28, 2010. During the interview, the objection of claim 16 and the enablement rejection were discussed. The Examiners agreed to withdraw the objection of claim 16, and the Examiners suggested amending claim 9 to that the claims be amended to be consistent with the specific types of conditions disclosed in the specification. Also, removal of the "overweight conditions" was suggested.

This application has been amended in manner consistent with the suggestions made during the interview, and, accordingly, the application is in condition for allowance.

Status of the Claims

Independent claim 9 includes the description of the hair conditions treated by the claimed method as described in lines 11-14 of page 6, and as described in Example 2 and Example 3.

Claim 27 is new. Claim 27 recites the other active ingredients used to complement or reinforce the main ingredients as described on page 9, lines 23-30, and shown in the Examples.

Claims 28 and 29 are new. These claims are directed to the specific skin and nail treatments discussed in the Examples,

for which the superior results are demonstrated. Skin and nail treatments were previously recited in a broad manner in claim 9.

Claims 9, 11-25 and 27-29 remain in this application.

Claim Objections

Claim 16 was objected to for being an improper dependent claim that did not further limit the subject matter of a previous claim.

As agreed in the interview, claim 16 further limits the "separately and consecutively" administration of the two composition described in claim 9. Claim 16 specifies when each composition is to be administered, e.g., one composition at a first part of the day and one composition at a second part of the day.

Therefore, withdrawal of the objection is respectfully requested.

Claim Rejections-35 USC §112

Claims 9 and 11-25 were rejected under 35 U.S.C. §112, first paragraph, for not complying with the enablement requirement. This rejection is respectfully traversed for the reasons below.

The position of the Official Action was the present specification included critical or essential compositions that are not included in the claims.

Independent claim 9 has been amended to recite the specific types of hair conditions disclosed on page 6, lines 11-16. Examples 2 and 3 describe treatment of hair loss using the claimed composition.

Example 1 describes the compositions utilized in the evaluations of Example 2. Composition (a) contains green tea extract, vitamin C, chromium chloride and zinc sulphate, and composition (b) contains iron fumarate and copper sulphate.

In Example 3, composition (a) contains green tea extract, vitamin C, chromium and zinc, and composition (b) contains iron and copper. These compositions are evaluated for treating the various conditions.

As noted previously, the other ingredients listed and evaluated in Examples 2 and 3, include suitable carriers or excipients, as well as, "ingredients that can complement or reinforce the action of the main ingredients". See, e.g., Page 9, lines 17-30.

Thus, the claimed ingredients are the main ingredients effective for treatment (e.g., as discussed on page 3, lines 8-17), and the other ingredients listed in the Examples complement or reinforce the recited or necessary ingredients, or are simply carriers or excipients.

This efficacy of the essential active ingredients in claim 9 is further demonstrated by the clinical study included in

the present appendix, i.e., "EVALUATION De L'EFFICACITE ET DE LA TOLERANCE DU COMPLEMENT NUTRITIONNEL WP 8-9".

An English translation of the Conclusion of the study (e.g., part 6, page 58 of the study), the Method of taking the compositions (e.g. part 3, page 9 of the study) and a description of the WP8 and WP9 compositions are also included in the appendix. WP8 and WP9 correspond to the commercial composition R.E.CAPIL₃.TM.

WP8 is a "First Composition", which comprises green tea extract, vitamin C, and zinc gluconate, and WP9 is a "Second Composition" comprising iron lactate and copper sulphate. Each volunteer took two tablets of WP 8 in the morning, and 1 table of WP 9 in the evening.

The conclusion from the clinical study was that the combination of these two compositions demonstrates a reduction in hair loss and improved strength, volume and brightness.

Similar to the Examples in the present specification, other ingredients were added to complement or reinforce the main ingredients, or to serve as carriers or excipients. Indeed, the use of vitamin D3 and vitamin E instead of the carotenoids as used in the Examples of the composition in the specification did not negatively impact the effect of the green tea extract, vitamin C and zinc mixture. That is, the clinical study also shows that the superior results are attributed to the main ingredients green tea extract, vitamin C and zinc in this

composition. Thus, the method of claim 9 does comply with the enablement requirement.

Newly added claim 27 further recites the other ingredients were added to complement or reinforce the main ingredients common to the examples and the clinical study. Accordingly, claim 27 also complies with the enablement requirement.

New independent claim 28 recites the specific skin conditions treated according to Examples 2 and 3. The result related to improving skin hydration (i.e. treating skin dryness) and reducing the depth of wrinkles (or crow's feet) are discussed, e.g., on pages 18 and 19 and briefly on at lines 30-31 of page 14.

New independent claim 29 recites the specific nail conditions treated according to Examples 2 and 3, e.g., improving nail hardness and reducing nail breakage frequency as discussed on page 19 and briefly at line 32 of page 14.

As discussed above with respect to claim 9, new claims 28 and 29 are also enabled by the specification, as the other ingredients involved in Examples 2 and 3, are suitable carriers or excipients, as well as, "ingredients that can complement or reinforce the action of the main ingredients". However, the claimed ingredients are the main ingredients effective for treatment, and the other ingredients listed in the Examples

complement or reinforce the recited or necessary ingredients, or are simply carriers or excipients.

Therefore, the claims comply with the enablement requirement, as the active ingredients are consistent with those disclosed and demonstrated in the example.

Withdrawal of the rejection is respectfully requested.

Conclusion

In view of the amendment to the claims, the superior results disclosed and demonstrated in the cited clinical study, and the foregoing remarks, this application is in condition for allowance at the time of the next Official Action. Allowance and passage to issue on that basis is respectfully requested.

Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our credit card which is being paid online

simultaneously herewith for any additional fees required under 37
C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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APPENDIX:

The Appendix includes the following item(s):

- Dr. Alain Jacquet and Pr. Nicholas Moore, EVALUATION DE L'EFFICACITE ET DE LA TOLERANCE DU COMPLEMENT NUTRITIONNEL WP 8-9 ; RAPPORT CLINIQUE, November 15, 2007.
- Compositions WP 8 and WP 9 (R.E.CAPIL₃.™).
- Verification of English Translation of parts 3 and 6 of the Clinical study.
- English translation of the "Method" described in part 3 at page 9 of "EVALUATION DE L'EFFICACITE ET DE LA TOLERANCE DU COMPLEMENT NUTRITIONNEL WP 8-9".
- English translation of the "Conclusion" in part 6 of page 58 of "EVALUATION DE L'EFFICACITE ET DE LA TOLERANCE DU COMPLEMENT NUTRITIONNEL WP 8-9".